

DOCKET NO.: FBT-CV-15-6048078-S : SUPERIOR COURT
JONATHAN SHAPIRO : J. D. OF FAIRFIELD
VS. : AT BRIDGEPORT
FRANK DELBOUNO, JR. and :
CITY OF BRIDGEPORT : NOVEMBER 3, 2016

**MOTION FOR PERMISSION TO WITHDRAW AND AMEND DEFENDANTS'
RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSION OF FACTS**

Pursuant to Practice Book §13-24, the Defendants, Frank Delbouno, Jr. and City of Bridgeport hereby move for permission to withdraw and amend their March 25, 2015 DEFENDANTS' RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSION OF FACTS in the following manner and for the following reasons:

1. The present lawsuit arises out of a February 15, 2013 motor vehicle accident which involved an intersection collision in which each party believed they had the green light and that the opposing party had the red light.
2. On March 6, 2015, the Plaintiff filed a Motion for Admission of Facts upon the Defendants.
3. On March 25, 2015, the Defendants filed a response to Plaintiff's Request for Admission of Facts in which the Defendants admitted "operating the police cruiser without a siren" (response to Request to Admit 3), denied "operating the police cruiser through a red traffic signal" (response to Request to Admit 6) and

denied that Plaintiff “operated his motor vehicle through a green traffic control signal” (response to Request to Admit 9).

4. Thereafter, in 2016, the Plaintiff produced a cell phone video taken by the Plaintiff as he approached and drove into the intersection, which reflected that at the time of the intersection collision, that the Defendant Police Officer’s emergency siren was on, that the Plaintiff entered the intersection on a green facing light, and that as a consequence, the Defendant Police Officer had to have entered the intersection on a red facing light.

5. That in reliance upon the Plaintiff’s cell phone video produced in 2016 (which reflects that at the time of the intersection collision, the Plaintiff’s light was green, the Defendant Police Officer’s light was red and the Defendant Police Officer’s emergency siren was on, so as to indicate that the Officer was mistaken as to his previous belief and related responses that the Plaintiff’s light was red, that the Defendant’s light was green, and that the Defendant’s emergency siren was not yet on), the undersigned Defendants hereby move to withdraw and amend their prior March 25, 2015 Defendants’ Response to the Plaintiff’s Request for Admission of Facts, in the manner reflected in the attached DEFENDANTS’ AMENDED RESPONSE TO PLAINTIFF’S REQUEST FOR ADMISSION OF FACTS, which is hereby incorporated by reference as if fully set forth herein, in which, consistent with

the dispositive evidence reflected in the Plaintiff's cell phone video, the Defendants now seek to deny "operating the police cruiser without a siren" (amended response to Request to Admit 3), admit "operating the police cruiser through a red traffic signal" (amended response to Request to Admit 6) and admit that Plaintiff "operated his motor vehicle through a green traffic control signal" (amended response to Request to Admit 9).

In further support for said Motion, the Defendants maintain that their Amended Responses to the Plaintiff's Request for Admission of Fact do not surprise, and will not prejudice, the Plaintiff since he was in possession for more than 3½ years of the cell phone accident video which disclosed the facts now being admitted in Defendants' Amended Responses.

THE DEFENDANTS:

BY: _____/s/
Lawrence A. Ouellette, Jr.
Associate City Attorney
OFFICE OF THE CITY ATTORNEY
999 Broad Street – 2nd Floor
Bridgeport, CT 06604
Telephone: 203-576-7647
Juris No. 06192

ORDER

The foregoing Motion for Permission is hereby ORDERED

GRANTED / DENIED

Judge / Clerk

CERTIFICATION

This is to certify that a copy of the foregoing was mailed via first-class mail, postage prepaid, on this 3rd day of November, 2016 to all counsel and pro se parties of record as follows:

Kevin C. Shea, Esq.
Clendenen & Shea, LLC
400 Orange Street
New Haven, CT 06511

/s/
Lawrence A. Ouellette, Jr.

NO.: FBT-CV-15-6048078-S : SUPERIOR COURT
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VS. : AT BRIDGEPORT
DELBOUNO, FRANK, ET AL : NOVEMBER 3, 2016

**DEFENDANTS' AMENDED RESPONSE TO PLAINTIFF'S
REQUEST FOR ADMISSION OF FACTS**

Pursuant to Practice Book Section 13-22, the plaintiff, Jonathan Shapiro, requests that the defendants, Frank Delbouno, Jr., and City of Bridgeport, admit within thirty (30) days after the filing of this request, that the following facts are true for the purpose of this action only:

1. The Investigative Office intended to check the "OTHER"- The claimant failed to yield to an emergency vehicle" box on the Claim Number- 9577 (Jonathan Shapiro) denial letter from the City of Bridgeport, Office of the City Attorney, dated May 7, 2013 (copy attached), but- in error- failed to do so.

ANSWER: ADMIT

2. On Friday, February 15, 2013, at approximately 1:30 p.m., the defendant

Frank Delbouno, Jr., was driving a Bridgeport police cruiser and acting as an employee of the City of Bridgeport, as the agent servant and employee of the City of Bridgeport, within the scope of said agency.

ANSWER: ADMIT

3. On Friday, February 15, 2013, at approximately 1:30 p.m. and/or immediately prior to the collision that is the subject of the above-entitled action, the defendant, Frank Delbouno, Jr. was operating the police cruiser without a siren.

AMENDED ANSWER: DENY, in reliance upon Plaintiff's cell phone video produced in 2016, which reflects that at the time of the intersection collision the Plaintiff's light was green, the Defendant Police Officer's light was red, and the Defendant Police Officer's emergency siren was on.

4. On Friday, February 15, 2013, at approximately 1:30 p.m. and/or immediately prior to the collision that is the subject of the above-entitled action, the defendant Frank Delbouno, Jr. was operating the police cruiser without warning lights.

ANSWER: DENY

5. On Friday, February 15, 2013, at approximately 1:30 p.m., the defendant Frank Delbouno, Jr. was on duty for the City of Bridgeport Police Department.

ANSWER: ADMIT

6. On Friday, February 15, 2013, at approximately 1:30 p.m., the defendant Frank Delbouno, Jr. operated the police cruiser through a red traffic signal at the intersection of Myrtle Avenue and Prospect Street.

AMENDED ANSWER: ADMIT, in reliance upon Plaintiff's cell phone video produced in 2016, which reflects that at the time of the intersection collision the Plaintiff's light was green, the Defendant Police Officer's light was red, and the Defendant Police Officer's emergency siren was on.

7. On Friday, February 15, 2013, at approximately 1:30 p.m., the defendant Frank Delbouno, Jr. operated the police cruiser without a siren through a red traffic signal at the intersection of Myrtle Avenue and Prospect Street.

ANSWER: DENY

8. On Friday, February 15, 2013, at approximately 1:30 p.m., the defendant Frank Delbouno, Jr. operated the police cruiser without warning lights through a red traffic signal at the intersection of Myrtle Avenue and Prospect Street.

ANSWER: DENY

9. On Friday, February 15, 2013, at approximately 1:30 p.m., Jonathan Shapiro operated this motor vehicle through a green traffic signal at the intersection of Myrtle Avenue and Prospect Street immediately prior to the collision that is the subject of this lawsuit.

AMENDED ANSWER: ADMIT, in reliance upon Plaintiff's cell phone video produced in 2016, which reflects that at the time of the intersection collision the Plaintiff's light was green, the Defendant Police Officer's light was red, and the Defendant Police Officer's emergency siren was on.

10. On Friday, February 15, 2013, immediately prior to the collision that is the subject of the above-entitled action, the defendant Frank Delbouno, Jr. was operating the police cruiser at a higher speed than the governing limit.

ANSWER: DENY

11. On Friday, February 15, 2013, Jonathan Shapiro operated his motor vehicle at a reasonable speed immediately prior to the collision that is the subject of this lawsuit.

ANSWER: We are unable to admit or deny this allegation.

THE DEFENDANTS:

BY: /s/
Lawrence A. Ouellette, Jr.
Associate City Attorney
OFFICE OF THE CITY ATTORNEY
999 Broad Street – 2nd Floor
Bridgeport, CT 06604
Telephone: 203-576-7647
Juris No. 06192

CERTIFICATION

This is to certify that a copy of the foregoing has been mailed, this 3rd day of November, 2015 to:

Kevin C. Shea, Esq.
Clendenen & Shea, LLC
400 Orange Street
New Haven, CT 06511

 /s/
Lawrence A. Ouellette, Jr.